

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-CR-60003-WILLIAMS

UNITED STATES OF AMERICA,

v.

ERNEST BERNARD GONDER JR.,

Defendant.

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**GOVERNMENT’S RESPONSE IN OPPOSITION TO  
DEFENDANT’S MOTION FOR DOWNWARD VARIANCE**

COMES NOW, the United States of America, by and through its undersigned Assistant United States Attorney, and hereby files its Response in Opposition to Defendant’s Motion for Downward Variance, and in support states as follows:

On March 6, 2024, the Defendant plead guilty to a two count Information which charged him with Wire Fraud, in violation of Title 18, United States Code, Section 1343, stemming from the Defendant’s fraudulent receipt of two separate Paycheck Protection Program (PPP) loans to which he was not entitled. As outlined in the PSI and factual proffer, the defendant submitted and caused the submission of materially false and fraudulent information and documentation in support of his applications for the PPP loans, including a falsified 2020 Internal Revenue Service “Employer’s Quarterly Federal Tax Return” Form 941, among other things. As a result of false and fraudulent PPP loan applications submitted as part of this scheme, the defendant caused Cross River Bank to approve PPP loan number 4533458705 for Ernest Bernard Gonder Jr. and to disburse approximately \$106,540.00 to the defendant at his JP Morgan Chase Bank account number ending in 3725 in the name of EBG PROPERTIES, LLC. Thereafter, in furtherance of

the scheme and artifice, the defendant submitted and caused the submission of materially false and fraudulent application information to Cross River Bank to cause and attempt to cause the forgiveness of PPP loan 4533458705 for which he was not entitled.

Moreover, as a result of the additional false and fraudulent PPP loan application submitted as part of this scheme, the defendant caused Cross River Bank to approve PPP loan number 7423158701 and disbursed approximately \$61,210.00 to the defendant at his JP Morgan Chase Bank account number ending in 0759 in the name of THE IMPACT CENTER OF BROWARD COUNTY, INC. As before, the defendant submitted and caused the submission of materially false and fraudulent application information to Cross River Bank to cause and attempt to cause the forgiveness of PPP loan 7423158701 to which he was not entitled. Thereafter, the defendant used the proceeds of the scheme and artifice to enrich himself. In total, the government suffered an actual loss of \$168,248.41.

A Pre-Sentence Investigation Report (PSI) was subsequently prepared by the U.S. Probation Office (DE 20) which concluded that based upon a total offense level of 12 and a criminal history category of I, the advisory guidelines imprisonment range was 10 to 16 months in Zone C. Thereafter, the Defendant filed a Motion for Downward Variance (DE 22) seeking a sentence of two years probation and a \$5,000 fine. Based on the facts and circumstances of the instant offense, and the nature and characteristics of the defendant, the United States vehemently opposes this request, and respectfully requests that the Court deny the Defendant's motion.

In support of the Defendant's Motion, the defendant points out that he "has no criminal history and is the glue that holds his extended family together." (DE 22 at 1). Nevertheless, a split sentence of 5 months incarceration followed by 5 months of home confinement is the appropriate sentence in the instant case. Here, the defendant, a sworn law enforcement officer,

Lieutenant, Executive Officer of Operations for the Department of Detention within the Broward Sheriff's Office, possessor of both a Bachelor's degree in Criminal Justice and a Master's degree in Public Administration, and a Pastor, sought and received not one, but two fraudulent PPP loans, totaling \$168,248.41. This, despite earning an annual income of \$260,000 with BSO, owning seven different companies, possessing a license to operate as a realtor, and owning three properties, including two properties that resulted in approximately \$10,000 in additional monthly income, (a fourth property was transferred to the Defendant's mother in law in September of 2023, just prior to the filing of the Information in the instant case), the defendant nonetheless made the conscious and knowing decision to betray his badge and sworn legal duty by fraudulently applying for and receiving two PPP loans to which he was not entitled utilizing falsified documents and information. This decision, from a defendant with a PSI calculated net worth of \$3.04 million dollars, can best be described as nothing but a greedy, selfish, and opportunistic money grab at the expense of hundreds of thousands of truly deserving business owner victims of the COVID-19 pandemic for which the PPP loan program was meant to support.

Despite this, the Defendant requests a significant downward variance and a sentence of straight probation because he has no prior criminal history and is "the glue that holds his family together." First and foremost, the advisory guidelines calculations already have taken into account his status as a zero-point offender with no prior criminal history, in that he was afforded a two point reduction under Guidelines Section 4C1.1 and assigned a criminal history category of I. Moreover, such a lenient sentence would not promote respect for the law and provide adequate deterrence for others contemplating a similar crime. Additionally, such a lenient sentence would result in unwarranted sentencing disparities since other BSO deputies, all of which were far subordinate in rank to the Defendant, were sentenced to between two and five years of probation

for having stolen approximately no more than \$40,000 in PPP funds. This defendant, the highest ranking BSO officer prosecuted and convicted to date, received approximately four times the illegal proceeds of that of his convicted and sentenced colleagues, and a sentence of probation would simply be unjust.

WHEREFORE, for the foregoing reasons, the Government respectfully requests that this Honorable Court deny the Defendant's request for a downward variance and sentence the defendant to five months imprisonment followed by five months of home confinement.

Respectfully submitted,

**MARKENZY LAPOINTE**  
UNITED STATES ATTORNEY

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 28, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

/s/ Marc S. Anton  
Assistant U.S. Attorney